

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**SB 113 - HB 199**

March 8, 2021

**SUMMARY OF BILL:** Requires municipalities to abate the storm water user fees assessed to property owners who construct holding or retention ponds on their property in an amount equal to the cost of construction of such ponds.

**ESTIMATED FISCAL IMPACT:**

**Decrease Local Revenue – Exceeds \$5,000,000/FY21-22 and Subsequent Years**

**Other Fiscal Impact – Local governments may increase storm water user fees charged to other customers to compensate, fully or partially, for recurring, mandatory, decreases in local revenue. The proposed language may result in mandatory increases in local government expenditures to maintain current operations, the extent and timing of which cannot reasonably be determined. \***

Assumptions:

- Pursuant to Tenn. Code Ann. § 68-221-1103 and § 68-221-1107:
  - Municipalities are authorized to construct necessary storm water facilities or flood control improvements;
  - Assess a graduated storm water user fee for each user of the storm water facility;
  - Fees are based on the user's estimated proportionate contribution to the total storm water runoff; and
  - Fees are used to pay the user's proportionate share in the construction, administration, operation, and maintenance of the facilities.
- The proposed language:
  - Requires property owners to provide notice of the cost of construction to the municipality, as soon as applicable, upon completion of the construction; and
  - After receiving the notice, the municipality is required to abate fees in an amount equal to the amount paid by the property owner for the construction of the ponds.
- It is unknown if the proposed legislation will apply to holding and retention ponds constructed prior to the effective date of this act, if such property owner can provide notice of the cost of construction.
- This analysis assumes:
  - The cost of construction for such ponds will vary based on size and type of pond constructed; however, the cost of any pond is estimated to be at least \$10,000;

- The proposed language will apply to retention and holding ponds constructed prior to the effective date of this act;
- Commercial properties are assessed storm water user fees at a higher rate than residential properties given the size and impermeability of surfaces located on the commercial property;
- Commercial properties will seek abatement of storm water fees more frequently than residential properties; and
- Municipalities will increase fees charged to other commercial and residential properties to compensate for the mandatory decrease in revenue experienced from the abatement of fees to certain properties.
- Based on information provided by local sources, the proposed language is estimated to result in a mandatory recurring decrease in local revenue exceeding \$5,000,000 annually statewide, beginning in FY21-22.
- While it is reasonably assumed that municipalities will increase user fees charged to other property owners to compensate for the recurring decrease in revenue, depending on the extent of the deficit in local revenues, there may be instances where municipalities also have to increase expenditures to maintain current storm water facilities. Any mandatory increase in such local expenditures cannot reasonably be determined.

*\*Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Bojan Savic, Interim Executive Director

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